



FOLEY & LARDNER LLP

USDC SDNY  
DOCUMENT

ELECTRONICALLY FILED

DOC #:

MAILING DATE:

JUL 14 2008

July 11, 2008

ATTORNEYS AT LAW

90 PARK AVENUE  
NEW YORK, NY 10016-1314  
212.687.7474 TEL  
212.687.2329 FAX  
foley.com

WRITER'S DIRECT LINE  
212.338.3528  
rweisbein@foley.com EMAIL

CLIENT/MATTER NUMBER  
093035 6000

VIA FACSIMILE (212) 805-0426 [2 pages]

Judge Laura T. Swain  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**MEMO ENDORSED**

Re: 08-CIV-4581  
Yahoo! Inc. v. XYZ Companies 1-25 and  
JOHN/JANE DOES 1-25  
a/k/a the "Yahoo! Lottery Spammers"

Dear Judge Swain,

We represent the plaintiff in the above-referenced civil action. We write to request permission to commence limited discovery in advance of a Rule 26(f) conference.

Unknown parties are running a far-reaching email spam campaign, attempting to trick internet users into believing that they have won a fictional "Yahoo! Lottery." No such lottery exists, and the perpetrators are collecting personal information and processing fees from unwitting recipients of these emails who attempt to collect their prize money. The facts of the scam are set forth in great detail in the complaint. We are attempting to discover the identities of the parties behind this email scam so that we may name them as defendants.

We have been able to ascertain certain information regarding the source of these emails. We would like to serve subpoenas on certain Internet service providers and financial institutions, which we believe have billing and identity information for the accounts that generated the hoax emails. We believe this information will not only help us identify the parties involved, but also clarify the names our research has revealed, distinguishing the participants in the scam from those names that came up who are victims. Because of the anonymous and convoluted nature of the scam, we believe this pre-conference discovery is the best method for ascertaining the identity of the defendants, and for preventing people who are already victims of the scam from being further burdened by being named as defendants in a lawsuit. Therefore we request the court's permission to take discovery before having the Rule 26(f) conference, such discovery limited to determining the identity of the perpetrators of this scam.

BOSTON  
BRUSSELS  
CENTURY CITY  
CHICAGO  
DETROIT

JACKSONVILLE  
LOS ANGELES  
MADISON  
MIAMI  
MILWAUKEE

NEW YORK  
ORLANDO  
SACRAMENTO  
SAN DIEGO  
SAN DIEGO/DEL MAR

SAN FRANCISCO  
SHANGHAI  
SILICON VALLEY  
TALLAHASSEE  
TAMPA

TOKYO  
WASHINGTON, D.C.



FOLEY &amp; LARDNER LLP

Judge Swain

July 11, 2008

Page 2

We are happy to provide the court with any additional information it would like to consider in this matter. If the court feels an in person conference is necessary, we are able to meet at the court's convenience.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. S. Weisbein".

Robert S. Weisbein

RSW:jbp

cc: Yahoo! Inc. (by email)

The request is granted.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Laura Taylor Swain" over a horizontal line. Below the signature, the text "UNITED STATES DISTRICT JUDGE" is printed in capital letters.